UNITED STATES PATENT AND TRADEMARK OFFICE

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10/696,180	10/28/2003	Bob Myrick	018360/270350	6566

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EXAMINER
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3629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/696,180	MYRICK ET AL.
	Examiner	Art Unit	
	KIMBERLY EVANS	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>*14 January 2010*</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-19* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-19* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>*2/24/09; 4/14/09; 8/9/105;7/20/05; 7/21/05*</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This action is in reply to the response filed January 14, 2010.

2. Claims 1 and 19 have been amended.

3. Claims 1-3, and 7-19 are currently pending and have been examined.

4. The rejections of claims 1-3, and 7-19 have been updated to reflect the amendments.

5. The Examiner has carefully reviewed the Applicant's response and has determined that the rejection stands and is resubmitted below addressing the claims as modified by said amendments.

Information Disclosure Statement

6. The Information Disclosure Statements filed on July 20, 2005, July 21, 2005, August 9, 2005, April 14, 2008, and February 24, 2009 have been considered. The IDS filed on July 20, 2005 appears to be a duplicate of IDS filed July 21, 2005. An initialed copy is enclosed herewith.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

    a. Determining the scope and contents of the prior art.

    b. Ascertaining the differences between the prior art and the claims at issue.

    c. Resolving the level of ordinary skill in the pertinent art.

    d. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-3, 7-11, and 13-15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie et al., US Patent No. US 6,344,796 B1, in view of Bloom US Patent Application Publication No US 2002/0130065A1, in further view of Cullen, III et al., US Patent Application Publication No US 2003/0200168 A1.

10. With respect to Claims 1-3, and 18,

Ogilvie discloses the following limitations,

- *using a computer system over the Internet to register a customer with an alternate delivery location (ADL) service provider to receive a product at an alternative delivery location (ADL) other than the customer's home or business address before purchase of the product by the customer,* (see at Figure 2, ...": column 5, lines 66 thru column 6, lines 1-3: "...The consumer must be a registered customer of with the central operations center. The center must have the consumer's personal contact information on file in its database, including how the consumer prefers to be contacted when they have a package. ..."; column 5, lines 31-38: "...Customers may add a permanent storage device identification number to their delivery address to be included when people send them packages, or when customers send outbound packages. When a delivery agent has a package for a tenant of a building with this

ganged bin solution, they will go directly to the bank of bins and put all the packages for that

tenant into one or more available bins...";)

- *wherein the step of using a computer system to register the customer is performed by the customer accessing the computer system via a website of an ADL service provider via the Internet using a web browser.*   (see at least column 6, lines 49-54: "...they will first use the central operations center website to create a package delivery code number and bar code label, which they then attach to the package. Again, the package delivery code will permit the customer to gain access to the secure depot facility, and they may use any available bin...")

- *receiving the product at the ADL for pickup by the customer*(see at least column 5 lines 59- column 6, lines 1-3: "...This invention also addresses the possibility of deploying a bank of storage devices at some convenient location along the routes where consumers drive home. This bank of storage devices serves as a depot to receive shipments from multiple vendors and permit pickup by consumers..."; "...The center must have the consumer's personal contact information on file in its database, including how the consumer prefers to be contacted when they have a package..."), *wherein the product is purchased by the customer and shipped via a carrier not associated with the ADL service provider.* (see at least column 6, lines 3-5: "...The delivery agents do not need any prior relationship with the center in order to deliver to such a consumer delivery depot. ...")

Ogilvie discloses all of the above limitations, Ogilvie does not distinctly disclose the following

limitations, but Bloom however as shown discloses,

- *wherein the customer selects the ADL from a list of ADL provided by the computer system and the ADL 0is stored in memory of the computer system* (see at least paragraph 61: "...Upon entering the appropriate search criteria, a customer can receive a listing of the nearby CDC locations 1190-1, for example, through a web page or over the phone. ...")

- *retrieving the ADL from the memory for use in shipping the product to the customer upon notification to the computer system by a vendor computer system over the Internet that the customer has purchased the product* (see at least paragraph 62: "...The ePD Billing &

Maintenance application can be a database and a set of programs to capture and maintain data related to customers, recipients, retailers, CDC's, RDC's, and shippers for use in the shipping operations of all ePD shippers...")

- *providing the ADL to the vender computer system to use as a shipping location for the product purchased by the customer and*

  (see at least paragraph 60: "...A shipper providing the ePD delivery service can also provide the traditional package delivery service of delivering a package to a customer specified address. ..."; paragraph 65: "...The ePD Shipping Application can be integrated with each order processing system in such a way as to minimize the amount of change to the retailer's system while providing the necessary data and functionality to enable the shipper to use the ePD Shipping Application to support the ePD Delivery Process....")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom because it is an efficient way for delivering packages for self-service retrieval.

Ogilvie and Bloom disclose all of the above limitations, the combination of Ogilvie and Bloom does not distinctly disclose the following limitations but Cullen however as shown discloses,

- *for the product purchased by the customer via a web browser enhancement tool that automatically populates form fields of a vendor web page to provide the ADL address for upload to the vendor computer system;* (see at least paragraph 62: "...The user interface to the vendor users 5 is provided by the bid web server 120 through a vendor module 115. For example, the vendor module 115 can populate web pages pushed to the vendor browser 20b using the data stored in the particular vendor database 155b..."; paragraph 167: "...If a vendor response to a particular bid item selection is required, the vendor user can enter the vendor response data 215 into a data field 238 for the bid item selection 235. As discussed above, the data field 238 can be a direct text-entry field or include

links to other web pages for selection of the appropriate vendor response data 215 from

pre-established vendor responses. In addition, the data field 238 can have multiple levels

with links to web pages for each level. Furthermore, the data field 238 may be able to be

directly populated from the vendor database with default vendor response data 215, such

as vendor name and vendor address…")

It would have been obvious to one of ordinary skill in the art at the time of the invention to

combine the Unattended Package Delivery cross-docking apparatus of Ogilvie with the method

and system for bulk package delivery of Bloom and the web-enabled computer system and

method for facilitating and managing all aspects of a (vendor) project because it is an efficient

and effective means the analysis and comparison for generation of buyer bid requests and

associated vendor bid responses.

11. With respect to Claim 7,

Ogilvie, Bloom, and Cullen disclose all of the above limitations, Ogilvie further discloses,

- *the step of using a computer system to register the customer involves the customer providing*
  the computer system identification of at least one retriever authorized by the customer to pick
  up the product at the ADL ,and the computer system storing the identification information in
  the memory, (see at least Figure 3, column 4 lines 3-11: "…Once the bulk shipper unloads
  the incoming items into the selected bin or bins, they lock those bins using a pre-assigned
  transaction code provided to them by the central operations center. This code will usually be
  associated by the central operations center with all data of the transaction as the bulk shipper
  had arranged it, including the payload, the identity of the receiving party (the "local shipper"),
  storage locations, and other pertinent transaction data.

- *verifying at the ADL that the retriever is authorized to receive the product from the*
  identification information stored in the memory (see at least column 5, lines 41-44: "…The
  central operations center will notify the customer by his/her preferred communications

method and provide them with the bin number and the access code to retrieve their packages…")

12. With respect to Claims 8 and 9,

Ogilvie, Bloom, and Cullen disclose all of the above limitations, Ogilvie further discloses,

- *notifying the customer that the product is available for pickup at the ADL.* (see at least see at least column 5, lines 41-44: "…The central operations center will notify the customer by his/her preferred communications method and provide them with the bin number and the access code to retrieve their packages…")

- *the step of using a computer system to register the customer involves the customer providing information of a preferred media for receiving notification that the product has arrived at the ADL to the computer system and the computer system storing the information of the preferred notification media in the memory, (*see at least column 2, lines 64-67: "…The consignee is then notified by whatever mode of communication (e.g., telephone, fax, or e-mail) that the consignee has registered with the provider of the apparatus. …."*: column 2, lines 45-49: "…the service options or accessories are selected, the billing/payment method is selected, and PLD information is routed to the mainframe computer 74 (FIG. 2). For the purpose of this description the term "accessories" generally refers to optionals added to standard shipping including but not limited to declared value, signature requirements, E-mail notification, and special handling instructions…")

- *the preferred notification media comprising at least one of telephone, email, pager, and the notifying is performed using the customer's preferred media.*(see at least column 2, lines 64-67: "…The consignee is then notified by whatever mode of communication (e.g., telephone, fax, or e-mail) that the consignee has registered with the provider of the apparatus. …."*)

13. With respect to Claims 10 and 11,

Ogilvie , Bloom, and Cullen disclose all of the above limitations, Ogilvie further discloses,

- *wherein an alternate delivery location tracking computer system (ATS) retrieves the information of the preferred indication media from the memory and notifies the customer of arrival of the product at the ADL., via the preferred indication media* (see at least column2, lines 45-49: "...The central operations controller may be programmed to communicate the data specific to incoming goods to the consignee electronically via a global communications network, such as by a voice message, by fax or by E-mail. ...")

- *wherein the ADL staff retrieves the information of the preferred indication media from the memory and notifies the customer that the product is available for pick up at the ADL via the preferred indication media.*(see at least column 2, lines 64-67: "...The consignee is then notified by whatever mode of communication (e.g., telephone, fax, or e-mail) that the consignee has registered with the provider of the apparatus. ....")

14. With respect to Claim 13,

    Ogilvie, Bloom, and Cullen disclose all of the above limitations, Ogilvie further discloses,

    - *accessing an alternate delivery location tracking system (ATS) to determine the status of the product in shipment from a vendor of the product to the customer.* (see at least paragraph 102: "...it can update the RDC Shipment record 1216 by setting Status to a value such as "ready to ship" and RDC Shipment Prep Date/Time to the current date/time.. ...").

15. With respect to Claim 14,

    Ogilvie, Bloom, and Cullen disclose all of the above limitations, Ogilvie further discloses,

    - *providing the customer with an authorization number that the customer can use to access the ATS to determine status of the product during transit from the vendor to the ADL.*(see at least column 3, lines 1-6: "...retailers can also offer the more efficient ePackage Depot (ePD) delivery option. The ePD delivery option can typically be priced lower than other delivery 25 options, since it requires the recipient to pickup their order from a customer distribution center

(CDC) (or destination centralized pickup location) 1190-1. ePD delivery service may be

provided by one or more package shippers or other organizations.. ...")

16. With respect to Claim 15,

Ogilvie, Bloom, and Cullen disclose all of the above limitations, Bloom further discloses,

- *wherein the accessing is performed by ADL staff to determine the status of packages sent to,*

  held by, and bound for the ADL. (see at least paragraph 96: "...The RDC worker unloading

  the current retailer shipments can receive all the Retailer Shipment Reports from the tractor-

  trailer driver, for the retailer shipments on the trailer (202).... By scanning the Retailer

  Shipment Id's on the Retailer Shipment Reports after scanning their Employee Id and the

  Trailer Id, the worker can accept all the retailer shipments and associated cases arriving on

  that trailer (202) into the current origination RDC 1170, by initiating the Receive Retailer

  Shipment Program (316) to add a new record to a Retailer Shipment Receiving table 1214 for

  each Retailer Shipment Id scanned.")

It would have been obvious to one of ordinary skill in the art at the time of the invention to

combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and

the web-enabled computer system and method for facilitating and managing all aspects of a

vendor project of Cullen with the method and system for bulk package delivery of Bloom because

it is an efficient way tracking shipments.

17. Claims 12 and 16-17 are rejected under 35 USC 103(a) as being unpatentable over Ogilvie in

view of Bloom, in further view of Cullen, in further view of Fleckenstein et al., US Patent

Application Publication No US 2004/0211834 A1.

18. With respect to Claim 12,

Ogilvie, Bloom, and Cullen disclose all of the above limitations, the combination of Ogilvie , Bloom, and Cullen does not distinctly disclose the following limitations, but Fleckenstein however as shown discloses,

- *wherein the vendor notifies the customer when the product is available for pick up at the ADL.* (see at least paragraph 43: "... an email is sent to the intended recipient, or their designee, when a delivery is attempted at a certain location. This email may include, for example, the notice code and a hyper-link to the delivery service's website so that the intended recipient may update their personal profile thereby instructing the delivery service to take certain actions regarding the parcels that were attempted to be delivered. ...")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom and the web-enabled computer system and method for facilitating and managing all aspects of a vendor project of Cullen with the delivery system of Fleckenstein because it is an efficient means for notifying customers of product delivery from the vendor.

19. With respect to Claim 16,

Ogilvie, Bloom, and Cullen disclose all of the above limitations, the combination of Ogilvie, Bloom, and Cullen does not distinctly disclose the following limitations, but Fleckenstein however as shown discloses,

- *wherein the ATS is used by ADL staff to log the date of arrival of the package at the ADL and to track how long the package has been held by the ADL.*(see at least paragraph 95: "...Unless such information is already entered, the driver can also fill out preliminary information such as the date, delivery attempt no., COD status, any other needed information, and will then press "stop complete" on the data acquisition device. This completes the creation of a delivery stop record, which, under one embodiment of the present invention, may include but is not limited to the following data fields: package delivery address,

item code, delivery modification authorization code(s), time and date, consignee, COD information, etc....")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom and the web-enabled computer system and method for facilitating and managing all aspects of a vendor project of Cullen with the delivery system of Fleckenstein because it is an efficient means for indicating that a delivery has been attempted or that the delivery has been modified.

20. With respect to Claim 17,

Ogilvie, Bloom, and Cullen disclose all of the above limitations, the combination of Ogilvie, Bloom, and Cullen does not distinctly disclose the following limitations, but Fleckenstein however as shown discloses,

- *wherein the ATS is accessed by the ADL staff using an ADL computer system to record the identity of a retriever of the product.*(see at least paragraph 130: "...The customer will provide a delivery notice, a delivery notice number and/or some form of valid identification in order to retrieve the parcel(s) from the service center...")

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom and the web-enabled computer system and method for facilitating and managing all aspects of a vendor project of Cullen with the delivery system of Fleckenstein because it is an efficient means for ensuring packages are retrieved by authorized customers.

21. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie, in view of Bloom, in further view of Cullen, in further view of Ben-Shaul et al. US Patent No 6,976,900 B2.

22. With respect to Claim 19,

Ogilvie, Bloom, and Cullen disclose all of the above limitations, the combination of Ogilvie, Bloom, and Cullen does not distinctly disclose the following limitations but Russell however as shown discloses,

- *wherein the registering involves the customer downloading a web browser enhancement tool.* (see at least column 9, lines 13-17: "...Such services are enabled for a particular edge server by the downloading of CDML instruction and data structures from the origin site, the target site or a third party site, and by interpretation of CDML code and data structure within the content...."

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Unattended Package Delivery cross-docking apparatus and method of Ogilvie and the method and system for bulk package delivery of Bloom and the web-enabled computer system and method for facilitating and managing all aspects of a vendor project of Cullen with the differentiated content and application delivery system of Ben-Shaul because it provides an efficient means for allowing content providers to directly control the delivery of content based on regional and temporal preferences, client identity and content priority.

Response to Arguments

23. Applicant's arguments received on January 14, 2010 have been fully considered but they are moot in view of the new ground(s) of rejection. The new grounds of rejection are necessitated by Applicant's amendments.

Conclusion

24. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kimberly L.**

Evans whose telephone number is **571.270.3929.** The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **John Weiss** can be reached at **571.272.6812.**

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair <http://pair-direct.uspto.gov >. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free). Any response to this action should be mailed to: **Commissioner of Patents and Trademarks**, P.O. Box 1450, Alexandria, VA 22313-1450 or faxed to **571-273-8300**. Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**: Randolph Building 401 Dulany Street, Alexandria, VA 22314.

/KIMBERLY EVANS/Examiner, Art Unit 3629

/JOHN G. WEISS/

Supervisory Patent Examiner, Art Unit 3629